

The Joint Enforcement Task Force on the Underground Economy and Employee Misclassification Welcomes Fair and Festival Vendors to MA!

Fairs, carnivals, festivals and local expositions have a longstanding tradition here in Massachusetts. These events boost the local economy and can provide an influx of jobs to the region. As a result, we want to work with your organization to be sure this seasonal work is performed in compliance with applicable labor, licensing and tax laws. We offer this material in an effort to provide compliance assistance to your vendors in order to make this the best year yet!



www.mass.gov/lwd/jtf

Here is a reminder about some important employer responsibilities in Massachusetts:

Office of the Attorney General, Fair Labor

Division:

We have attached the Massachusetts Wage and Hour Law poster, but here are a few quick reminders:

- Minimum wage in Massachusetts is \$8.00 per hour.
- Employees who work a period of 6 hours are entitled to a 30 minute meal break.
- Overtime is paid for all hours worked over 40 at a rate of 1.5 times the regular hourly rate of pay.
- Employment permits are required for minors under the age of 18.
- 14 – 15 year olds can only work until 7pm; 16-17 year olds can only work until 10:15 on school nights and 11:30pm on weekends.
- For more information about teen employment please see the teen guide here:
<http://www.mass.gov/ago/docs/workplace/teen-guide-final.pdf>

Department of Unemployment Assistance (DUA):

Please be aware that if you employ one or more permanent, temporary, or part-time workers, you must register your new business or successor business with the Massachusetts Department of Unemployment Assistance (DUA).

Under Massachusetts law, there is a presumption that all workers are employees. Therefore, you should register your business with DUA even if all or some of your workforce is being classified as independent contractors. Failure to register your business with DUA within 90 days may result in assessed liability, penalties, liens on real estate or personal property, and civil or criminal enforcement.

To avoid enforcement action, go to UI Online at www.mass.gov/uima and register your business.

- You will be assigned a password and employer identification number which will allow you to access and manage your self-service online account.

- Once registered, you must file quarterly Employment and Wage Reports and submit payments (if required) with DUA online.

Our UI Online website www.mass.gov/uima provides information about the requirements for filing unemployment wage records and instructions on how to use UI Online. If you have any questions regarding your liability, please contact the Employer Liability Staff at (617) 626-5075.

Department of Revenue (DOR):

Every person, sole proprietorship or corporation attending an event with the purpose of selling is required to be registered for Sales or Meals Tax, to collect the tax and file at the close of the month. (Vendors may also be required to turn it over to the Department at the close of the show.) (M.G.L. ch. 64H, s.1 & 2) TIR 10-21 clearly defines Promoter and Vendor responsibilities. Vendors can also visit the DOR website at; <http://www.mass.gov/dor> for additional information including Web-file for business.

Every Promoter or Venue promoting a show or fair, is required to notify the Department within ten days of an event, obtain a Registration Certificate, ensure that all vendors at said event are registered, not permit an unregistered vendor to attend the event and file a return at the close of the events listing the name, address and registration number for each vendor at the event. (M.G.L. ch. 62C, s. 8A & s.67A)



For more information, please contact Melissa Butts at 617-626-7103 or Melissa.Butts@state.ma.us

Thank you for another great year of festivities!



A Reminder About Some Important Employer Responsibilities for Vendors in MA

Department of Industrial Accidents (DIA):

All employers in Massachusetts are required to carry Workers' Compensation insurance covering their employees, including themselves if they are an employee of their company. This requirement applies regardless of the number of hours worked in any given week, except that domestic service employees must work a minimum of 16 hours per week in order to require coverage.

Out of State employers are required to cover all their employees who are working in Massachusetts, with workers' compensation benefits under Massachusetts law. You do not need to buy a policy strictly for Massachusetts if, in your existing workers' compensation policy, Massachusetts coverage is listed in Section 3.A of the policy's Information Page.

If Massachusetts is specifically listed in Section 3.C of the Information Page, the policy is acceptable only if the Insurer (Insurance Carrier) verifies the coverage in Massachusetts. The Insurer must forward Form 154 verifying workers' compensation coverage in Massachusetts to the Office of Investigations. If the Insurer fails to meet this requirement, a Stop Work Order is immediately issued.

Furthermore, any notation in Section 3.C of the policy's information page that "all states are covered" or "all states are covered except those listed in Item 3.A and the States of: ND OH WA WY" or something similar is acceptable only upon verification of workers' compensation coverage in Massachusetts by the insurer. The insurer must forward Form 154 verifying workers' compensation coverage in Massachusetts to the Office of Investigations. If the insurer fails to meet this requirement, a Stop Work Order shall be issued immediately.

Department of Public Safety (DPS)

Any person who owns and operates an amusement device as defined by 520 CMR 5.01 is required to be licensed by the Department of Public Safety (DPS) prior to operation. 520 CMR 5.01 defines an amusement device as *a fixed or portable mechanical device similar to, but not limited to Ferris wheels, carousals, rock walls, euro-bungee or similar devices, inclined railways or similar devices, including inflatables, as well as amusement devices as defined by American Society for Testing and Materials (ASTM) including go karts, concession go karts, and other mechanical devices that are confined to one path of travel.*



As part of the license application process, amusement company owners need to provide (*among other things*):

- An original insurance certificate for at least \$2,000,000 for all amusement devices except "Small Inflatable Devices" which shall be insured for at least \$1,000,000.
- A completed certified inspector's report on a form approved by the Department.
- An itinerary listing locations and dates where the owner intends to use an amusement device(s).
- A copy of the Manufacturer's Data Report for each ride.
- Documentation of the names of the trained and certified operators for each ride at time of application submission.
- Name and contact information, and certification documentation of the certified maintenance mechanic.
- A copy of all manuals and bulletins for the devices to be operated.
- A legible copy of a government- issued picture identification bearing the applicant's signature.
- A completed CORI Request Form acquired from www.mass.gov/dps.
- A CORI procedure for the Department's approval. Pursuant to 520 CMR 5.00, any amusement device owner must perform criminal inquiries on their employees prior to hiring. However, a CORI check should not be performed until a person has been deemed qualified to be hired for the position in question.

For more information about DPS amusement license requirements, please see the "Criminal History Inquiry Guidelines for Owners of Amusement Devices" the "Model CORI Policy", Frequently Asked Questions (FAQs) and other information available at the following link.

<http://www.mass.gov/eopss/consumer-prot-and-bus-lic/license-type/amusements/amusements.html>